

Administration of Donald J. Trump, 2020

Proclamation 10128—To Take Certain Actions Under the African Growth and Opportunity Act and for Other Purposes

December 22, 2020

By the President of the United States of America

A Proclamation

1. In Proclamation 8618 of December 21, 2010, the President determined that the Democratic Republic of the Congo (DRC) was not making continual progress in meeting the requirements described in section 506A(a)(1) of the Trade Act of 1974, as amended (the "Trade Act"), as added by section 111(a) of the African Growth and Opportunity Act (the "AGOA") (title I of Public Law 106–200, 114 Stat. 251, 257–58 (19 U.S.C. 2466a(a)(1))). Thus, pursuant to section 506A(a)(3) of the Trade Act (19 U.S.C. 2466a(a)(3)), the President terminated the designation of the DRC as a beneficiary sub-Saharan African country for purposes of section 506A(a)(1) of the Trade Act.

2. Section 506A(a)(1) of the Trade Act authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a "beneficiary sub-Saharan African country" if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703), as well as the eligibility criteria set forth in section 502 of the Trade Act (19 U.S.C. 2462).

3. Pursuant to section 506A(a)(1) of the Trade Act, based on actions that the Government of the DRC has taken, I have determined that the DRC meets the eligibility requirements set forth in section 104 of the AGOA and the eligibility criteria set forth in section 502 of the Trade Act, and I have determined to designate the DRC as a beneficiary sub-Saharan African country.

4. Section 112(c) of the AGOA, as amended in section 6002 of the Africa Investment Incentive Act of 2006 (division D of title VI of Public Law 109–432, 120 Stat. 2922, 3190–93 (19 U.S.C. 3721(c))), provides special rules for certain apparel articles imported from "lesser developed beneficiary sub-Saharan African countries."

5. I have also determined that the DRC satisfies the criterion for treatment as a "lesser developed beneficiary sub-Saharan African country" under section 112(c) of the AGOA.

6. On April 22, 1985, the United States and Israel entered into the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel (the "USIFTA"), which the Congress approved in section 3 of the United States–Israel Free Trade Area Implementation Act of 1985 (the "USIFTA Act") (Public Law 99–47, 99 Stat. 82 (19 U.S.C. 2112 note)).

7. Section 4(b) of the USIFTA Act provides that, whenever the President determines that it is necessary to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA, the President may proclaim such withdrawal, suspension, modification, or continuance of any duty, or such continuance of existing duty-free or excise treatment, or such additional duties, as the President determines to be required or appropriate to carry out the USIFTA.

8. In order to maintain the general level of reciprocal and mutually advantageous concessions with respect to agricultural trade with Israel, on July 27, 2004, the United States entered into an agreement with Israel concerning certain aspects of trade in agricultural products during the period January 1, 2004, through December 31, 2008 (the "2004 Agreement").

9. In Proclamation 7826 of October 4, 2004, consistent with the 2004 Agreement, the President determined, pursuant to section 4(b) of the USIFTA Act, that, in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA, it was necessary to provide duty-free access into the United States through December 31, 2008, for specified quantities of certain agricultural products of Israel.

10. Each year from 2008 through 2019, the United States and Israel entered into agreements to extend the period that the 2004 Agreement was in force for 1-year periods to allow additional time for the two governments to conclude an agreement to replace the 2004 Agreement.

11. To carry out the extension agreements, the President in Proclamation 8334 of December 31, 2008; Proclamation 8467 of December 23, 2009; Proclamation 8618 of December 21, 2010; Proclamation 8770 of December 29, 2011; Proclamation 8921 of December 20, 2012; Proclamation 9072 of December 23, 2013; Proclamation 9223 of December 23, 2014; Proclamation 9383 of December 21, 2015; Proclamation 9555 of December 15, 2016; Proclamation 9687 of December 22, 2017; Proclamation 9834 of December 21, 2018; and Proclamation 9974 of December 26, 2019, modified the Harmonized Tariff Schedule of the United States ("HTS") to provide duty-free access into the United States for specified quantities of certain agricultural products of Israel, each time for an additional 1-year period.

12. On December 3, 2020, the United States entered into an agreement with Israel to extend the period that the 2004 Agreement is in force through December 31, 2021, and to allow for further negotiations on an agreement to replace the 2004 Agreement.

13. Pursuant to section 4(b) of the USIFTA Act, I have determined that it is necessary, in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA, to provide duty-free access into the United States through the close of December 31, 2021, for specified quantities of certain agricultural products of Israel, as provided in Annex I of this proclamation.

14. Section 604 of the Trade Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including removal, modification, continuance, or imposition of any rate of duty or other import restriction.

15. The Caribbean Basin Economic Recovery Act, as amended (the "CBERA"), (title II of Public Law 98–67, 97 Stat. 384 (19 U.S.C. 2701 *et seq.*)), instituted a duty preference program that applies to a product of a Caribbean Basin country that has been designated by the President as a beneficiary country. On October 10, 2020, the President signed into law the Extension of the Caribbean Basin Economic Recovery Act (Public Law 116–164, 134 Stat. 758), which extends certain preferential tariff treatment accorded under the CBERA to September 30, 2030. I have determined, pursuant to section 604 of the Trade Act, that it is necessary to modify the HTS to reflect the extension of the CBERA.

16. On August 21, 2020, in accordance with section 103(a)(2) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (the "Trade Priorities Act") (title I of Public Law 114–26, 129 Stat. 319, 333 (19 U.S.C. 4202(a)(2))), I notified the Congress that I intended to enter into an agreement regarding tariff barriers with the European Union under section 103(a) of the Trade Priorities Act. On November 20, 2020, the United States entered into such an agreement with the European Union.

17. Section 103(a)(1) of the Trade Priorities Act authorizes the President to proclaim such modification of any existing duty as the President determines to be required or appropriate to carry out a trade agreement entered into under section 103(a). The President generally may proclaim such modification provided that the modification does not reduce the rate of duty to a

rate that is less than 50 percent of the rate of such duty that applied on June 29, 2015; does not reduce the rate of duty below that applicable under the Uruguay Round Agreements or a successor agreement on any import-sensitive agricultural product; and does not increase the rate of duty above the rate of such duty that applied on June 29, 2015.

18. Pursuant to section 103(a) of the Trade Priorities Act, I have determined that it is required and appropriate to modify existing duties with respect to certain goods to carry out the agreement regarding tariff barriers with the European Union for such time as the European Union carries out the agreement.

Now, Therefore, I, Donald J. Trump, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including section 506A(a)(1) and section 604 of the Trade Act; sections 111(a) and 112(c) of the AGOA; section 6002 of the Africa Investment Incentive Act of 2006; section 4(b) of the USIFTA Act; and section 103(a) of the Trade Priorities Act, do proclaim that:

(1) The DRC is designated as a beneficiary sub Saharan African country for purposes of section 506A of the Trade Act.

(2) In order to reflect this designation in the HTS, general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries "Democratic Republic of the Congo".

(3) For purposes of section 112(c) of the AGOA, the DRC is a lesser developed beneficiary sub-Saharan African country.

(4) In order to provide the tariff treatment intended under section 112(c) of the AGOA, note 2(d) to subchapter XIX of chapter 98 of the HTS is modified by inserting in alphabetical sequence in the list of lesser developed beneficiary sub-Saharan African countries "Democratic Republic of the Congo".

(5) The modifications to the HTS set forth in paragraphs (1) through (4) of this proclamation shall be effective with respect to articles that are entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 2021.

(6) In order to implement United States tariff commitments under the 2004 Agreement through December 31, 2021, the HTS is modified as provided in Annex I of this proclamation.

(7) The modifications to the HTS set forth in Annex I of this proclamation shall be effective with respect to eligible agricultural products of Israel that are entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 2021.

(8) The provisions of subchapter VIII of chapter 99 of the HTS, as modified by Annex I of this proclamation, shall continue in effect through December 31, 2021.

(9) In order to reflect in the HTS the provisions of the extension of the CBERA, general note 17(f)(i) is modified by deleting "September 30, 2020" and inserting, in lieu thereof, "September 30, 2030".

(10) In order to modify duties on certain goods to carry out the agreement regarding tariff barriers with the European Union, the HTS is modified as set forth in Annex II to this proclamation.

(11) The modifications to the HTS set forth in Annex II to this proclamation shall enter into effect on the dates indicated in Annex II and remain in effect until the date on which the European Union ceases to carry out the agreement, as determined by the United States Trade Representative (USTR) in a notice published in the *Federal Register*. The HTS shall be modified to revert to the duty rate in effect on July 31, 2020, for each subheading identified in Annex II,

effective on that date as determined by the USTR. The USTR shall publish notice of such a determination in the *Federal Register*.

In Witness Whereof, I have hereunto set my hand this twenty-second day of December, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fifth.

DONALD J. TRUMP

[Filed with the Office of the Federal Register, 8:45 a.m., December 28, 2020]

NOTE: This proclamation was published in the *Federal Register* on December 29.

Categories: Proclamations : African Growth and Opportunity Act, actions.

Subjects: African Growth and Opportunity Act, beneficiary country designations.

DCPD Number: DCPD202000902.